



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

April 19, 2024

By ECF

The Honorable Paul A. Engelmayer
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *D.J.C.V., et al. v. United States of America*, No. 20 Civ. 5747 (PAE)

Dear Judge Engelmayer:

This Office represents defendant United States of America (the “Government”) in the above-referenced action brought under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 *et seq.* Pursuant to the discussion held on the record during the April 2, 2024, court conference, the Government respectfully submits this joint letter on behalf of the parties to update the Court on the status of the parties’ settlement of this action and to outline the steps that need to be taken to finalize the settlement agreement.

On April 2, 2024, Plaintiffs’ counsel filed a proposed infant compromise order (“ICO”) to authorize plaintiff G.C. to sign the settlement agreement on behalf of his infant son, plaintiff D.J.C.V. (ECF No. 268). In support of that application, Plaintiffs’ counsel also filed a declaration from plaintiff G.C. (ECF No. 270) and an attorney declaration (ECF No. 269) which attached as exhibits the proposed settlement stipulation (ECF No. 269-1) and documentation about the pooled minor’s trust into which D.J.C.V.’s portion of the settlement proceeds will be deposited for his benefit (ECF No. 269-2). To address concerns about threats of violence and extortion due to Plaintiffs’ receipt of the settlement funds, Plaintiffs used only their initials in the publicly-filed versions of the ICO and proposed settlement agreement to protect their identities and moved to file the versions with plaintiff G.C.’s unredacted full name under seal (ECF No. 266).¹

Following the conference held on April 2, 2024, the parties agreed to amend paragraph 3.d of the settlement stipulation to clarify that counsel for plaintiffs G.C. and D.J.C.V. will not be seeking attorneys’ fees or costs in this action. *See also* ECF No. 272 (Order directing the parties to submit revised submissions in support of their proposed settlement agreement). Accordingly, Plaintiffs’ counsel re-filed the following documents on April 17, 2024:

1. Proposed ICO, using only plaintiff G.C.’s initials (ECF No. 273);
2. Attorney declaration in support of the ICO and settlement agreement (ECF No. 274);

¹ All publicly filed documents in this case use Plaintiffs’ initials for this reason.

3. Revised proposed settlement agreement, using only plaintiff G.C.'s initials (ECF No. 274-1);
4. Minor trust documentation (ECF No. 274-2); and
5. Declaration of plaintiff G.C. in support of the ICO and settlement agreement (ECF No. 275).

Plaintiffs also re-filed their request for a sealing order permitting redaction of plaintiff G.C.'s full name from the publicly-filed versions of the ICO and revised settlement stipulation, with unredacted copies to be filed under seal (ECF No. 276). In support of the sealing application, Plaintiffs' counsel filed the following documents under seal:

1. Proposed ICO with plaintiff G.C.'s full name unredacted (ECF No. 277);
2. Attorney declaration in support of the ICO and settlement agreement (ECF No. 277-1);
3. Revised proposed settlement agreement with plaintiff G.C.'s name unredacted (ECF No. 277-2);
4. Minor trust documentation (ECF No. 277-3); and
5. Declaration of plaintiff G.C. in support of the ICO and settlement agreement (ECF No. 277-4).

As discussed during the April 2 conference, an unsigned version of the proposed settlement stipulation has been filed for the Court's consideration in ruling on the ICO, but the parties do not request that the Court so-order the stipulation or dismiss the action at this time. Rather, once the ICO has been so-ordered, the Government will submit the parties' proposed settlement agreement to the Attorney General or his designee ("DOJ") for final approval. Once that approval has been received, counsel for the Government will sign the settlement agreement and Plaintiffs' counsel will file it as an exhibit to a proposed order of dismissal for the Court's signature.

In sum, the parties respectfully propose the following procedure to finalize settlement of this action:

1. The Court will rule on Plaintiffs' motion to seal (ECF No. 276-277).
2. The Court will review the proposed ICO (ECF No. 277) together with the supporting declaration by plaintiff G.C. (ECF No. 277-4), the supporting declaration by Plaintiffs' counsel (ECF No. 277-1), the proposed settlement stipulation (ECF No. 277-2), and the pooled minor's trust documentation (ECF No. 277-3), and if acceptable, will sign the proposed ICO (ECF No. 277). Plaintiffs respectfully request that any signed version of the unredacted ICO entered on the docket be under seal and accessible only to the parties in this action.
3. The undersigned will submit to the DOJ the settlement stipulation signed by Plaintiffs' counsel and plaintiff G.C., on his own behalf and on behalf of the minor plaintiff D.J.C.V., the Court's approval order, and a formal request for settlement approval by the Attorney General or his designee.

4. Once final DOJ approval is received, counsel for the Government will sign the settlement stipulation and Plaintiffs' counsel will file it with this Court as an exhibit to a proposed order of dismissal.
5. Within five business days after counsel for the Government receives DOJ approval of the settlement, and after the undersigned receives the Plaintiffs' payment information as specified in the settlement agreement, the undersigned will submit a request to the Department of the Treasury to disburse the settlement proceeds.

We thank the Court for its consideration of these matters and appreciate the Court's assistance in moving this case toward final resolution.

Respectfully,

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cc: Plaintiffs' counsel (by ECF)